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Simon Tong

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EXAMINER

PARDO, THUY N

ART UNIT

PAPER NUMBER

2165

DATE MAILED: 09/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/661,748

Applicant(s)

TONG ET AL.

Examiner

Thuy N. Pardo

Art Unit

2165

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-56 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-56 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>8/8/06; 6/22/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Applicant's Amendment filed on June 22, 2006 in response to Examiner's Office Action has been reviewed. Claims 1, 7, 9-11, 17, 31, 33, 36, 37, 41-52 have been amended, and claims 53-56 have been added.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 1-56 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. For instance, the content of these claims is limited to an abstract idea, and does not constitute a statutory process, machine, manufacture or composition of matter in which the statutory process must result in a physical transformation. Federal courts have held that 35 U.S.C. Sec. 101 does have certain limited. First, the phrase "anything under the sun that is made by man" is limited by the text of 35 U.S.C. Sec. 101, meaning that one may only patent something that is a machine, manufacture, composition of matter or a process. See, e.g., *Alappat*, 33 F.3d at 1542, 31 USPQ2d at 1556; *In re Warmerdam*, 33 F. 3d 1354, 1358, 31 USPQ2d 1754, 1757 (Fed. Cir. 1994). Applicant's claimed invention is not a combination of devices that appear to be directed to a machine and one or more steps of functions performed by the machine.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-53 are rejected under 35 U.S.C. 102(e) as being anticipated by Yadav et al. (Hereinafter “Yadav”) US Patent application Publication No. 2004/0186828.

As to claim 1, Yadav teaches the invention substantially as claimed, comprising:

- (a) receiving a search query [202 of fig. 2A];
- (b) determining a first related query related to the search query [identify the keywords and operators of the query, and identify synonyms and related words of each key word, 204, 206 of fig. 2A; 0046];
- (c) determining a first article associated with the search query [fig. 6-fig. 9; 0048];
- (d) determining a first ranking score for the first article based at least in part on data associated with the first related query [score 24 for Doc #1, fig. 9; 0067-0069].

As to claim 2, Yadav teaches the invention substantially as claimed. Yadav further teaches that the data associated with the first related query comprises a total selection score for the first related query [fig. 7-8].

As to claim 3, Yadav teaches the invention substantially as claimed. Yadav further teaches that the total selection score comprises a total number of users that selected a result returned for a search for the first related query [fig. 9].

As to claim 4, Yadav teaches the invention substantially as claimed. Yadav further teaches the data associated with the first related query comprises an instance score for the first related query [0060-0068].

As to claim 5, Yadav teaches the invention substantially as claimed. Yadav further teaches that the instance score comprises a number of instances the first article was shown in a search result for the first related query [0060-0068].

As to claim 6, Yadav teaches the invention substantially as claimed. Yadav further teaches that the data associated with the first related query comprises a selection score for the first article [fig. 9].

As to claim 7, Yadav teaches the invention substantially as claimed. Yadav further teaches that the selection score for the first article comprises selections made in search results for the first related query in a context of the search query [0044-0046].

As to claim 8, Yadav teaches the invention substantially as claimed. Yadav further teaches that the total selection score for the first related query comprises selections made in search results for the first related query in a context of the search query [fig. 3-9; 0044-0046].

As to claim 9, Yadav teaches the invention substantially as claimed. Yadav further teaches that the instance score for the first related query comprises selections made in search results for the first related query in a context of the search query [fig. 3-9; 0044-0046].

As to claim 10, Yadav teaches the invention substantially as claimed. Yadav further teaches that the number of instances the first article was shown in a search result for the first related query comprises instances shown in a context of the search query [0060-0068].

As to claim 11, Yadav teaches the invention substantially as claimed. Yadav further teaches that the related query data associated with the first related query comprises a second selection score for a second article associated with the first related query [0068-0069; fig. 9].

As to claim 12, Yadav teaches the invention substantially as claimed. Yadav further teaches that determining the first article associated with the search query comprises determining the first article associated with the search query and with the first related query [0016].

As to claim 13, Yadav teaches the invention substantially as claimed. Yadav further teaches determining a first selection score for the first article when associated with the first

related query, and wherein determining the first ranking score for the first article based at least in part on data associated with the first related query comprises determining the first ranking score for the first article based at least in part on the first selection score [fig. 4; 801-803 of fig. 8].

As to claim 14, Yadav teaches the invention substantially as claimed. Yadav further teaches determining an initial search result for the search query, the initial search result comprising the first article; and determining that a search result for the first related query comprises the first article [ab; fig. 9].

As to claim 15, Yadav teaches the invention substantially as claimed. Yadav further teaches that the first article comprises a representation of the first article [ab; 0049; 220 of fig. 2B].

As to claim 16, Yadav teaches the invention substantially as claimed. Yadav further teaches the representation of the first article comprises a uniform resource locator [0068].

As to claim 17, Yadav teaches the invention substantially as claimed. Yadav further teaches that determining the first ranking score for the first article when associated with the first related query comprises determining a number of times the first article was selected when presented in search results for the first related query [218 of fig. 2B; fig. 9].

As to claim 18, Yadav teaches the invention substantially as claimed. Yadav further teaches that determining the number of times the first article was selected when presented in search results for the first related query comprises determining a number of clickthroughs for the first article when presented in search results for the first related query [218 of fig. 2B; fig. 9].

As to claim 19, Yadav teaches the invention substantially as claimed. Yadav further teaches that determining the first ranking score for the first article comprises: determining a first initial ranking score for the first article when associated with the search query and calculating a mathematical function comprising the first initial ranking score and the first selection score [fig. 7; 0059-0063].

As to claim 20, Yadav teaches the invention substantially as claimed. Yadav further teaches that calculating the mathematical function comprising the first initial ranking score and the first selection score comprises combining the first initial ranking score and the first selection score, weighted with at least one weighting factor [0062; fig. 4, 6, 7].

As to claim 21, Yadav teaches the invention substantially as claimed. Yadav further teaches that calculating the mathematical function comprising the first initial ranking score and the first selection score comprises combining the first initial ranking score and the first selection score, normalized with at least one normalization factor [0062].

As to claim 22, Yadav teaches the invention substantially as claimed. Yadav further teaches that determining a second article associated with the search query; and (f) determining a second ranking score for the second article based at least in part on data associated with the first related query [fig. 4].

As to claim 23, Yadav teaches the invention substantially as claimed. Yadav further teaches ranking the first article and the second article based at least in part on the first ranking score and the second ranking score.

As to claim 24, Yadav teaches the invention substantially as claimed. Yadav further teaches providing a search result for the search query having the first article and the second article ranked according at least in part to the first ranking score and the second ranking score.

As to claim 25, Yadav teaches the invention substantially as claimed. Yadav further teaches determining a second related query related to the search query, and wherein determining the first ranking score for the first article is further based at least in part on data associated with the second related query [0016; 0061].

As to claim 26, Yadav teaches the invention substantially as claimed. Yadav further teaches that determining the first related query further comprises determining a query previously made consecutively with the search query [0016; 0040].

As to claim 27, Yadav teaches the invention substantially as claimed as specified in claim 1 above, with the exception of program codes. However, this feature is inherent in the system in order to implement these functions.

As to claims 28-40 and 42-52, these claims are apparatus claims of claims 1-26 above, therefore, these claims are rejected under the same rationale.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claims 53-56 are rejected under 35 U.S.C. 102(e) as being anticipated by Prince US patent No. 6,877,002.

As to claim 53, Prince teaches the invention substantially as claimed, comprising:

receiving a search query [38 of fig. 4; col. 6, lines 61 to col. 7, lines 10];

identifying a plurality of articles associated with the search query [40 of fig. 4; col. 7, lines 4-11];

identifying a first related query having a relationship to the search query [terms that are related to the query; col. 6, lines 64 to col. 7, lines 5];

determining at least one quality signal for a first article from the plurality of articles, wherein the quality signal is associated at least in part with the first related query [data signal having a qualify keywords code segment for qualifying metadata if the score is equal to or greater than a predetermined threshold, col. 18, lines 14-18];

and calculating a first ranking score for the first article based at least in part on the quality signal [col. 18, lines 14-18, 50-55; ab].

As to claim 54, Prince teaches the invention substantially as claimed. Prince further teaches ranking the first article against at least some of the plurality of articles based at least in part on the first ranking score [col. 9, lines 45-59].

As to claim 55, Prince teaches the invention substantially as claimed. Prince further teaches that the quality signal comprises clickthrough data [inherent in the system since quality signal is URI].

As to claim 56, Prince teaches the invention substantially as claimed. Prince further teaches that the first ranking score for the first article is calculated based at least in part on the relationship of the first related query and the search query [terms that are related to the query; col. 6, lines 64 to col. 7, lines 5].

Response to Arguments

5. Applicant argues that that Applicant's claimed invention is statutory subject matter. Examiner respectfully disagrees. Examiner believes that the content of these claims is limited to an abstract idea, and does not constitute a statutory process, machine, manufacture or composition of matter in which the statutory process must result in a physical transformation. Federal courts have held that 35 U.S.C. Sec. 101 does have certain limited. First, the phrase "anything under the sun that is made by man" is limited by the text of 35 U.S.C. Sec. 101, meaning that one may only patent something that is a machine, manufacture, composition of matter or a process. See, e.g., *Alappat*, 33 F.3d at 1542, 31 USPQ2d at 1556; *In re Warmerdam*, 33 F. 3d 1354, 1358, 31 USPQ2d 1754, 1757 (Fed. Cir. 1994). Applicant's claimed invention is not a combination of devices that appear to be directed to a machine and one or more steps of functions performed by the machine.

Applicant argues Yada does not disclose using the original query received to determine associated articles or ranking an article associated with the original query based on data associated with a related query.

As to this point, Examiner respectfully disagrees. Yada teaches that after receiving a query, the user can access documents available related to the query [0034; 0048] and ranking an article associated with the query [score 24 for Doc #1, fig. 8-9; 0067-0069].

Applicant argues that Yada does not rank articles based on data associated with related queries.

Examiner respectfully disagrees. Examiner believes that Yada teaches this feature. Yada teaches submitting an initial query input and an enhanced query (the selected synonyms and related words) to the search engine, and then displaying the results of the search to the user in document score order [see fig. 2A-2B].

6. Applicant's arguments filed on June 22, 2006 have been fully considered but they are not persuasive.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thuy Pardo whose telephone number is 571-272-4082. The examiner can normally be reached on Mon-Thur.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Gaffin can be reached on 571-272-4146. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

September 15, 2006

A handwritten signature in black ink, appearing to be 'Thuy N. Pardo', written in a cursive style.

**THUY N. PARDO
PRIMARY EXAMINER**